



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

NEW JERSEY STATE BOARD OF OPTOMETRISTS
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

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(973) 504-6440

Via Certified and Regular Mail

Brenda Kamsler Lynly, O.D.
Suburban Eye Institute
369 Springfield Avenue
Berkeley Heights, NJ 07922

April 17, 2000

Re: Internet website for the Suburban Eye Institute
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Lynly:

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning an Internet website for the Suburban Eye Institute. Specifically, the information reviewed included an eleven page advertisement located at www.suburbanoptik.com. Attached hereto as Exhibit A is a copy of the printed Internet advertisement.

Upon review of the advertisement, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:12-1, and N.J.A.C. 13:38-1.1, 13:38-1.2(a), 13:38-1.2(f)2 and 13:38-1.3(d) in that:

1. Pages two and three of the Internet advertisement make reference to the terms "Professional Medical Service" and "Board certified physicians." The Board deems the use of these terms to be misleading. Use of the term "board certified" does not indicate to the reader the name of the entity or board that is providing the certification, while use of the term "professional medical services" implies medical services are offered. The website only offers purely optometric services and no medical doctor is associated with this practice, thus, the use of these terms in an advertisement is misleading and constitutes a violation of N.J.A.C. 13:38-1.2(a).

2. The website also refers to "Lasik Laser Vision Correction" as a service offered by the optometrist. The offer of Lasik Laser Vision correction is false and misleading as it is beyond the scope of practice of an optometrist and constitutes a violation of N.J.S.A. 45:12-1 and N.J.S.A. 13:38-1.2.

3. The third page entitled "Medical Services" also offered "Specialized Contact lens fittings including soft daily wear, extended wear, astigmatic and rigid gas permeables." The use of the term "specialized contact lens fittings..." constitutes the use or employment of deception and misrepresentation in violation of N.J.A.C. 13:38-1.2(f)2 as the items specified in the title do not include special lenses but rather refer to routine lenses which may be fit by any licensed optometrists.

4. Finally, each page of the website contains a reference to a copyright of the Suburban Eye Institute and Suburban Optik, Inc. Page two includes the name of the practice, address, telephone and fax number but fails to provide the name of at least one licensee responsible for the optometric practice at the individual location disclosed as required by N.J.A.C. 13:38-1.3(d). The Board is of the belief that any advertisement including an Internet website should disclose the name of a licensee responsible for optometric practice at the advertised location, wherever the name of the practice appears because a consumer may only read one page of the website and therefore may not obtain the pertinent information.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from advertising professional medical services and Lasik Laser correction and engaging in any other misleading advertising;
2. the issuance of a formal reprimand;
3. pay a penalty in the amount of \$250 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter);

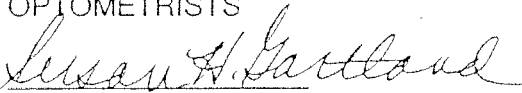
If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez who may be reached at (973) 693-5056.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

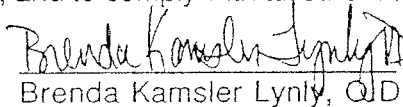
NEW JERSEY STATE BOARD
OF OPTOMETRISTS

By:



Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Brenda Kamsler Lynly, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$250.00 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.



Brenda Kamsler Lynly, O.D.

Dated: 6/2/00.

cc: Carmen A. Rodriguez, Deputy Attorney General
CM: RRR 7099 3400 0001 5726 5062